

Remarks/Arguments

Claims 1-9, 19-31, 33-35 and 39-43 are pending in the application. Claims 10-18, 32, 37-38 were previously cancelled. Claims 1-9, 19-28, 41 and 42 are withdrawn. Claims 29-31, 33-36, 39, 40 and 43 are rejected. Claims 1-9, 19-31, 33-36, and 39-43 are currently cancelled. Claims 44-53 are new.

Applicant amends by introducing new claims 44-53. Applicant submits that these amendments add no new matter and that the Application as originally filed provides full support for the new claims. For example, support for the new claims may be found in the specification in paragraphs [0017], and [0037], [0038], [0042]-[0044] and in Figures 6-15.

Applicant thanks Examiner Kim for the telephone interview of October 20, 2008, wherein topics along the following lines were discussed. Proposed new claims were discussed with respect to the § 112 and art rejections. The Examiner agreed that the positive recitation of a gear box defines the claimed invention over the Astle reference. A recitation of telescoping features was discussed in reference to Chapman. No agreement was reached, but there were suggestions on how the rejections could be overcome. In view of the discussion, Applicant is submitting amended claims, without prejudice.

Applicant notes that the claim set, as amended, now includes two independent claims (i.e., Claims 44 and 53) and has 53 claims total. Claims 1-9, 19-31, 33-36, and 39-43 are cancelled and claims 44-53 are newly added. Therefore, no fees are due. However, if needed, any fees due are authorized to be charged as set forth below.

Applicant further notes that this Amendment and Response is being filed within the three month shortened statutory period and, as such, no extension of time is required. However, if any such extension of time is determined to be required, this shall serve as a request for any such required extension, pursuant to 37 CFR 1.136.

In view of the claims as set forth above and the remarks below, Applicant respectfully submits that all claims patentably distinguish over the cited references and are in condition for allowance.

Claim objections: The Action objects to claims 30, 31, 33, and 34 as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant submits that the current amendments make the objections moot.

Claim Rejections – 35 USC § 112: The Action rejects claim 43 under 35 USC § 112, first paragraph, as not providing enablement to a person skilled in the art to make and/or use the invention commensurate in scope with the claim. Applicant submits that the current cancellation of claim 43 makes the rejection moot.

The Action further rejects claims 29-40 and 43 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant submits that the current cancellation of claims 29-40 and 43 makes the rejections moot.

Claim Rejections – 35 USC § 102: The Action rejects claims 29-31, 34-36, 39, 40 and 43 under 35 USC 102(b) as anticipated by Astle (US 738,271). Applicant respectfully traverses the rejection.

In addition to the arguments set forth in the previous response, Applicant submits that Astle fails to disclose every limitation as currently claimed. Applicant submits that the current amendments clarify the distinctions over Astle. Astle discloses a spraying machine including a skeleton truck of support members supporting yokes 22 and wheels 33. Astle does not disclose

a gear box mounted on one arm and directly coupled to an axle assembly. Moreover, Astle does not disclose a tire. Therefore, there is no *prima facie* case of anticipation.

The Action further rejects claims 29-31, 39, 40, and 43 under 35 USC 102(b) as anticipated by Chapman (US 6,131,833). Applicant respectfully traverses the rejection.

Applicant submits that the current amendments emphasize the distinctions over Chapman. In addition to the arguments set forth in the previous response, Applicant submits that Chapman fails to disclose every limitation as currently claimed in newly added claims 44-53. Chapman discloses a tracked drive tower for an irrigation system having a drive pulley, tail pulley, and idler pulleys engaging an endless track. A gear motor 65 causes the drive pulley 64 to rotate so that the rods 76 engage the lugs 58 to positively propel the belt 50 and idler wheel assemblies 48. (See Figure 7, 8 and column 3 line 66 to column 4 line 6). The idler wheels 48 are connected to a beam 60 that is pivotally mounted on bracket 61. In contrast, Applicant's claims are directed to a wheel assembly and an irrigation system comprising a generally U-shaped support frame that receives in between its opposite arms a tire assembly. An axle assembly for the tire assembly is mounted on the arms so that a tire of a tire assembly contacts the ground and elevates the support frame. The gearbox is recited in the claim to directly couple to the axle assembly of the tire assembly. Chapman fails to disclose this.

Instead, it only shows a track system where the wheels of the track are not driven by an axle assembly mounted on a U-shaped frame. See for example wheel 48 in Figure 7. This wheel is not connected to axle 66, which is coupled to a gear box for motor 65. Only disk-shaped plates 72 and 74 are coupled to the gearbox. Those plates do not contact the ground.

In view of the foregoing remarks, new claims 44-53 patentably distinguish over the cited art. Applicant submits that the Action is traversed in view of the current amendments and arguments above.

In view of the foregoing, Applicant requests that the Action's rejections be reconsidered and withdrawn.

Nothing herein should be deemed as a disclaimer or surrender of any rights, an acquiescence in any rejection, or a waiver of any arguments that might have been raised but were not raised herein or otherwise in the prosecution of this application. Applicant reserves all rights and subject matter with respect to claims being or to be pursued in this or a related application.

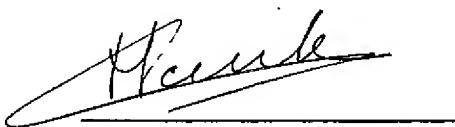
CONCLUSION

Applicant submits that in view of the foregoing remarks and/or amendments, the application is in condition for allowance, and favorable action is respectfully requested.

The Commissioner is hereby authorized to charge any fees, including extension fees, or to charge any additional fees or underpayments, or to credit any overpayments, to the Credit Card account referenced and authorized via the EFS Web (Electronic Filing System). As an alternative, in case the Credit Card cannot be processed, the Commissioner is hereby authorized to charge any fees, additional fees, or underpayments, or to credit any overpayments, to Deposit Account No. 50-1001.

Respectfully submitted,

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